



Woodbridge Village Association

April 12, 1996

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Office of the Secretary
FCC
Washington, DC 20554

Re: IB docket No. 95-59
Preemption of Local Zoning Regulations of Satellite Earth Stations
FCC 96-78

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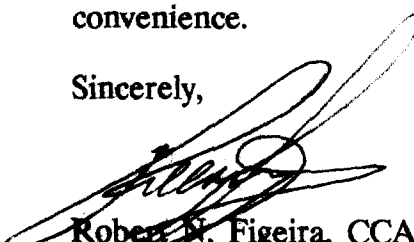
Dear Sir:

The Woodbridge Village Association Board of Directors is pleased to submit the attached filing (an original and five copies) on the above referenced rule, currently being processed by the FCC.

Please forward the attached to the appropriate parties.

Should additional information be required, please contact me at your convenience.

Sincerely,


Robert N. Figueira, CCAM, PCAM
Executive Director
Woodbridge Village Association

jm

pc: Community Association Institute, Alexandria, VA

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...Achievements

1991
Published in
Ninety-nine
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in
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1990
Community
Association Institute
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Of The Year

1990
Featured in
Landscape Architect
Magazine,
May Issue

1989
Recipient
Southern California
Water Committee
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Water Awareness
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1989
Featured in
Sunset Magazine,
November Issue

1985
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Parent's Magazine,
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11 April 1996

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC

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In the matter of

Preemption of Local Zoning Regulations
of Satellite Earth Stations

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IB Docket No. 95-59
DA 91-577
45-DSS-MISC-93
FCC 96-78

Introduction

Pursuant to the Further Notice of Proposed Rulemaking released March 11, 1996, in the above captioned proceeding the Woodbridge Village Association (WVA) submits the following Comments in response to the proposed rule as found in Section 25.104(f).

The WVA has been active in providing architectural guidance to our members under California Legislation AB104, and while there are some differences, we wish to provide to our residents appropriate compliance with the intent of Congress as determined by the final FCC regulations.

Recommendation

To that end we recommend the following change (in italics) to the proposed rule, Section 25.104(f)

"Section 25.104(f) No restrictive covenant, encumbrance, homeowners association rule, or other nongovernmental restriction shall be enforceable to the extent that it impairs a viewer's ability to receive video programming services over a satellite antenna less than one meter in diameter located on the viewer's undivided property interest or exclusive use area".

Discussion

The WVA is a Master Association with Architectural Control over 9500 residences which comprise over 20% of the City of Irvine, California, one of the premier planned communities in California and the US. Our community encompasses Single Family Detached homes (SFD), Condominiums, Planned Unit Developments (PUD), and Apartments. We believe the proposed rule allows us architectural control, per our CC&Rs on covered property, so long as the property owner is allowed to place a satellite dish antenna on their property. That is the way we have been operating under California AB104, and we have had excellent cooperation with our property owners as to location of the dish and have never denied a dish. To date our applications have only been from owners of SFD and PUD homes. Apartment dwellers, being tenants, must first negotiate dish installation rights with the Apartment owner, the owner would then consult the Master Association with respect to the actual location of the dish placement.

Condominium owners, under the California Davis Sterling Act which controls community associations, do not have sole ownership of their roofs and walls. They are common property

owned by or partially by the rest of that condominium association. In Woodbridge there are 32 separate condominium associations, each a California non profit corporation with its own separate board of directors who are charged with the control of finances, insurance, maintenance, etc. of their common area. Under our WVA CC&Rs, each condominium association determines the property rights over its property and the WVA is assigned architectural control over any granted rights. A vast and potentially difficult issue arises should the Federal Government, through the FCC, attempt to overturn community property rights by asserting that, with respect to satellite dish antennas, any owner of an interest in common area has the sole right to place an antenna anywhere he may please in the common area to guarantee successful satellite TV reception. Many condominium owners also have areas that have been designated exclusive use areas (easements) in the common property such as balconies, atriums, and yards. Again if reception is possible at all in these areas, and in some units the physical orientation may not allow reception, antennas may be permitted under the same architectural control as above for owners of sole property.

Conclusion

In order to permit satellite dish antennas as universally as possible, but without overturning long established definitions of the various ownership methodologies and their attendant property rights we recommend that the rule read:

“Section 25.104(f) No restrictive covenant, encumbrance, homeowners association rule, or other nongovernmental restriction shall be enforceable to the extent that it impairs a viewer’s ability to receive video programming services over a satellite antenna less than one meter in diameter located on the viewer’s undivided property interest or exclusive use area”.

Thank you for permitting our participation in your rule making process.

Sincerely,

WOODBRIDGE VILLAGE ASSOCIATION



Don Davis, President

at the Direction of the Board of Directors